

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2254 OF 2007

Yusuf Suleman Baugwala Petitioner
V/s
State of Maharashtra Respondent.

Mr.M.B.Shirsat, Adv. For the petitioner.

Mrs.M.H.Mhatre, APP For the respondent.

CORAM: A.P.DESHPANDE, J.

6/12/07

PC:

Rule. Rule made returnable forthwith.

Taken up for final hearing by consent of both the parties.

The present petitioner is an accused in Case No.167/PW/04 before the Metropolitan Magistrate, 15th Court at Mazgaon, Mumbai for the offences punishable under sections 344 and 365 read with section 34 of the Indian Penal Code. As the petitioner's application for discharge was rejected by the Magistrate he preferred a criminal revision in the Court of Sessions Judge which is pending on the file of 11th Court at Sewri, Mumbai. Criminal revision application was fixed for hearing on 1.10.07. On the said date counsel for the applicant filed an application for adjournment stating therein that pursuant to the direction issued by the Division Bench comprising of Hon' ble Chief Justice and Hon' ble Dr. Justice D.Y.Chandrachud on 9.12.07 various connected writ petitions

dealing with the issue of transfer of Trust to WAKF Board are fixed and hence it will not be possible for the advocate to conduct the case on 10th. Said application came to be rejected by the revisional court by following order:

“No sufficient ground for adjournment. Adjournment rejected.”

On the same day the applicant moved an application that he proposes to challenge the order refusing adjournment before the High Court and hence sought time. Time was granted initially till 30.11.07 and I am informed that the matter has been adjourned to 13.12.07. Learned counsel appearing for the petitioner has submitted that the petitioner-applicant would be put to irreparable loss and there would be failure of justice if revision application is permitted to be decided without affording an opportunity of hearing to the applicant. Learned APP in all fairness submits that one opportunity could be made available to the petitioner-applicant to argue revision petition. As yet revision has not been heard and the matter has been as a matter of fact adjourned. Hence no prejudice will be caused to any one if the matter is heard on merit and decided by the Sessions Court on 13.12.07 on any convenient date thereafter. Learned counsel for the petitioner assures this Court that the applicant would cooperate revisional court in expeditious disposal of revision. Hence in the interest of justice impugned order refusing adjournment dated 10.10.07 passed by the learned Sessions Judge, Sewri in Cri.Revision Application No.324/06 is quashed and set aside. Revisional Court shall

proceed to decide the revision after affording opportunity to the petitioner so also the respondent of being heard in the matter. It shall be open for the Sessions Court to proceed with the hearing either on 13.12.07 on which date the matter is fixed for hearing or any other convenient date. Rule made absolute in above terms.

6.4.12.07